

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

SHAWN CLARKE SPOTTSWOOD,

Case No. 22-CV-2604 (WMW/JFD)

Plaintiff,

v.

REPORT AND RECOMMENDATION

WOODBURY POLICE DEPARTMENT
et al.,

Defendants.

On November 1, 2022, this Court issued an order directing Plaintiff Shawn Clarke Spottswood to submit an initial partial filing fee of \$7.15. (Dkt. No. 6 at 4.) The Court gave Mr. Spottswood 21 days—that is, until November 22, 2022—to submit the fee, failing which the Court would recommend dismissing this action without prejudice under Federal Rule of Civil Procedure 41(b) for failure to prosecute. (*See id.*)

That deadline has now passed, and Mr. Spottswood has not submitted the initial partial filing fee. Accordingly, this Court, in accordance with its earlier order, recommends dismissing this action without prejudice under Rule 41(b). *See, e.g., Henderson v. Renaissance Grand Hotel*, 267 F. App'x 496, 497 (8th Cir. 2008) (per curiam) (“A district court has discretion to dismiss an action under Rule 41(b) for a plaintiff’s failure to prosecute, or to comply with the Federal Rules of Civil Procedure or any court order.”).

Given this recommendation, the Court further recommends denying Mr. Spottswood's application to proceed *in forma pauperis* (Dkt. No. 4) as moot.

Accordingly, **IT IS HEREBY RECOMMENDED** that:

1. This matter be **DISMISSED WITHOUT PREJUDICE**;
2. Mr. Spottswood's Application to Proceed in District Court without Prepaying Fees or Costs (Dkt. No. 4) be **DENIED AS MOOT**; and
3. **JUDGMENT BE ENTERED ACCORDINGLY**.

Dated: December 1, 2022

s/ John F. Docherty
JOHN F. DOCHERTY
United States Magistrate Judge

NOTICE

Filing Objections: This Report and Recommendation is not an order or judgment of the District Court and is therefore not appealable directly to the Eighth Circuit Court of Appeals. Under Local Rule 72.2(b)(1), "a party may file and serve specific written objections to a magistrate judge's proposed finding and recommendations within 14 days after being served a copy" of the Report and Recommendation. A party may respond to those objections within 14 days after being served a copy of the objections. LR 72.2(b)(2). All objections and responses must comply with the word or line limits set for in LR 72.2(c).